

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2002-0024

FOR

WALTER PROPERTIES, INC.
WILLIAM OCCHIPINTI

210 FIFTH STREET
SANTA ROSA

Sonoma County

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board), finds that:

1. Walter Properties, Inc., owns property at 210 Fifth Street in Santa Rosa, California (Assessors Parcel Number 010-071-009) (hereinafter Site). The Site is currently occupied by a retail gasoline station operated by William Occhipinti. Walter Properties and William Occhipinti are hereinafter collectively referred to as the Dischargers.
2. The Site is bordered on the north by Fifth Street, on the west by Davis Street and Railroad Square, on the south by Fourth Street and on the east by Highway 101. Land use in the Site vicinity is commercial and includes retail shops and restaurants. The nearest sensitive receptors include Santa Rosa Creek and a water supply well both located approximately 1,125 feet west of the Site. The Site has been occupied by a retail gasoline station since at least 1950 and has operated under the names Richfield, Arco, Rhino, and Texaco.
3. In 1996, an application was submitted to the Santa Rosa Fire Department (SRFD) by Sessions Tank Liners, Inc., to reline the three metal USTs at 210 Fifth Street. The SRFD required the collection of soil samples from soil borings as a permit requirement. The tanks were relined in 1996. However, evidence that the soil samples were collected has not been submitted.
4. The organic compound, Methyl tert Butyl Ether (MtBE) was detected in groundwater in 1996 at 123 Fourth Street at up to 380 parts per billion (ppb). Gasoline storage and use at 123 Fourth Street, which is located west and downgradient of 210 Fifth Street, predates the use of MtBE as an oxygenating agent in gasoline. In September 2001, MtBE was detected at up to 120 ppb immediately west of Davis Street, which is further downgradient and approximately 800-1000 feet from 210 Fifth Street. The underground storage tanks (USTs) and associated dispensing equipment and improvements at 210 Fifth Street are the only known UST system in the vicinity storing fuel containing MtBE.
5. The discovery of MtBE in groundwater downgradient of the operating gasoline station prompted the June 12, 1998, Regional Water Board staff request that the Dischargers submit a work plan to investigate the impact to water quality. A work plan was submitted in April 2000 for the drilling of one onsite soil boring to confirm a release at 210 Fifth Street. The analytical results revealed the presence of Total Petroleum Hydrocarbons as gasoline (TPHg) in groundwater at 35,000 parts per billion (ppb). Benzene, toluene, ethylbenzene, xylenes (BTEX) and MtBE were also detected.
6. In October 2000 Regional Water Board staff requested the submittal of a work plan to define the extent of groundwater contamination. A work plan was submitted in November 2000 and implemented in August 2001 for the collection of grab groundwater samples. The analytical tests revealed the presence of separate phase hydrocarbons on groundwater in the vicinity and west of the USTs. Maximum concentrations of dissolved petroleum hydrocarbons in soil (in parts per million) and groundwater (in parts per billion) are:

Maximum Concentrations of Petroleum Hydrocarbons	Soil (ppm)	Groundwater (ppb)
Gasoline	2600	120,000
Diesel	580	2,300,000
Benzene	4.8	1800
MtBE	13	49,000

6. MtBE is present in soil and groundwater beneath and west of the Site. Key factors, including the distance to the nearest sensitive receptors and the levels of MtBE in soil and groundwater beneath the Site, enable Regional Water Board staff to assign a Priority Class A to the Site under the State Water Resources Control Board draft "Guidelines for Investigation and Cleanup of MtBE and Other Ether-Based Oxygenates." Priority A sites with high concentrations of MtBE and large release mass should have concentrations and mass reduced before the contaminated groundwater plume can spread beyond its existing boundaries. Long-term impacts to water quality are likely to be reduced and cost effectiveness increased if interim remediation is performed. Aggressive interim remediation in the source area can help minimize the formation of a larger diluted plume of MtBE. A large diluted plume would be more difficult to remediate and could have widespread impacts.
7. Additional responsible parties may exist, including past owners and/or operators. Continued review of the historical record, facts, data and information may result in additional parties being named in this Order as Dischargers, in which case this Order would be revised.
8. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance. Continuing discharges are in violation of the Porter-Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).
10. Existing and potential beneficial uses of areal groundwater include domestic, irrigation, and industrial supply. Beneficial uses of Santa Rosa Creek, a tributary to the Laguna de Santa Rosa and the Russian River are:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. non-contact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. migration of aquatic organisms
 - n. spawning, reproduction, and/or early development.
11. The California Water Code, and regulations and policies developed thereunder require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup and abatement activities are to provide attainment of background levels of water quality, or the highest water quality that is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels greater than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to

the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board.

12. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Exhibit 1, attached to and made part of this Order, sets out the water quality objectives for groundwater.
13. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
14. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA").
15. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.
16. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. Such request should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to appeal the Order, be advised that you must comply with the Order while your appeal is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharges forthwith and shall comply with the following provisions of this Order:

- A. Conduct all work under the direction of a California registered civil engineer or geologist experienced in soil, groundwater and surface water assessment and remediation.
- B. Abate the discharge to soil and groundwater forthwith.
- C. Submit an adequate interim remediation plan to the Regional Water Board and the Santa Rosa Fire Department for the removal of product and impacted soil and groundwater around and beneath the USTs, fuel dispensers, and associated piping within 30 days of issuance of this Order.

- D. Implement and complete the work for Task C within 60 days of Regional Water Board Executive Officer concurrence with the plan and in accordance with all Santa Rosa Fire Department permitting and regulatory requirements.
- E. Submit a report of completed work within 45 days of work plan implementation.
- F. Implement the October 23, 2001, "Phase I Site Investigation Report and Proposed Phase 2 Step Out Borings" work plan prepared by The McEdwards Group within 45 days of issuance of this Order.
- G. Submit a report of findings within 45 days of work plan implementation including an adequate work plan of any additional effort necessary to define the extent of contamination.
- H. Implement the work plan included in Task G within 45 days of the Regional Water Board Executive Officer concurrence with the plan.
- I. Continue with Tasks G and H until the horizontal and vertical extent of groundwater contamination has been defined.
- J. Submit a Corrective Action Plan (CAP) according to the requirements of Title 23, Division 3, Chapter 16, Article 11, Section 2725 within 60 days of Regional Water Board Executive Officer's determination that Tasks G and H have been completed.
- K. Submit a copy of the Sessions Tank Liners, Inc. report for tank relining at 210 Fifth Street including the SRFD required pre-lining soil sample locations, methods and analytical results and the condition of the USTs prior to relining, within 45 days of issuance of this Order.
- L. Submit a list of interested party names and addresses, including all landowners west of Highway 101, North of Third Street, South of Sixth Street and west to Santa Rosa Creek within 45 days of issuance of this Order.
- M. Complete any additional work deemed reasonably necessary by the Regional Water Board Executive Officer to abate and cleanup the discharge of waste.
- N. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule contained in this Order or submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request in writing, an extension of time as specified. The extension request must be submitted 5 days in advance of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case the Order will be revised accordingly.

Ordered by _____
Susan A. Warner
Executive Officer

February 14, 2002

(WalterPropertiesC&A)